



The Governor Returned 'The Jharkhand Definition of Local Persons and for Extending the Consequential Social, Cultural and Other Benefits to Such Local Persons Bill, 2022',

Why In News?

- On January 29, 2023, on behalf of the Hemant Soren Government of Jharkhand, on the 'The Jharkhand Definition of Local Persons and for Extending the Consequential Social, Cultural and Other Benefits to Such Local Persons Bill, 2022', related to the Khatian based local policy of 1932. Governor Ramesh Bais has returned it for review.

Key points

- Governor has asked the state While returning the bill, the government to seriously review the legality of this bill so that it is in accordance with the Constitution and in accordance with the orders and instructions of the Supreme Court.
- It is worth mentioning that the Jharkhand Mukti Morcha, Congress and Rashtriya Janata Dal (JMM-Congress-RJD) Mahagathbandhan government headed by Hemant Soren has extended 'The Jharkhand Definition of Local Persons and for Extending the Consequential Social, Cultural and Other Benefits to Such Local Persons Bill, 2022', was passed by voice vote on November 11, 2022, and sent to the Governor for approval.
- The Bill had stated that local persons in Jharkhand shall be called those who are citizens of India and reside within the territorial and geographical boundaries of Jharkhand. The names of his ancestors 1932 are recorded in the Survey/khatian of or earlier.
- The Bill also states that only local persons identified under the Act will be entitled to class III and IV government jobs in the state.
- The review of the Bill found that article 16 of the Constitution guarantees equal rights to all citizens in terms of employment. According to Article 16(3) of the Constitution, only Parliament has the right to impose any kind of condition in the matter of employment under Section 35(A) under a special provision. The State Legislature does not have this power.
- It is noteworthy that in *AVS Narasimha Rao and others v. Andhra Pradesh and others* (AIR 1970 SC 422) it has also been clearly explained that the right to impose any kind of condition in the matter of employment is vested only in the Indian Parliament. Thus, this bill is against the provision of the constitution and the order of the Supreme Court.
- Jharkhand is a scheduled area under the State, which falls under the Fifth Schedule. Clear guidelines have been issued by the Constitutional Bench of the Supreme Court about giving reservation in employment to 100 percent local persons in the said areas. In this order also, the Supreme Court had declared the powers vested in the Governor to impose conditions of appointments in scheduled areas contrary to Article 16 of the Constitution.
- In *Satyajit Kumar vs State of Jharkhand*, the Supreme Court had declared 100 per cent reservation given by the state in scheduled areas as unconstitutional. The Law Department had clarified that the provisions of the Bill in question were contrary to the Constitution and the orders of the Supreme Court. It has also been said that such provisions are not in accordance with the orders passed by the Supreme Court and The Jharkhand High Court.
- The Law Department also said that such a provision clearly of Part III Articles 14, 15, 16(2) appears

to be inconsistent and adversely affected by the fundamental right guaranteed in of the Indian Constitution, of the Indian Constitution Article 13 which would also be affected by and would give rise to unnecessary debates.

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